

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No.

ANTENOR DALFIOR,)
)
Plaintiff)
)
v.)
)
ANTICO FORNO, INC.;)
CARLA GOMES,)
)
Defendants)

COMPLAINT AND JURY DEMAND

Introduction

1. This action is brought by an hourly worker of the Defendants for unlawful failure to pay overtime in violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et seq.* Plaintiff seeks, among other forms of relief, unpaid wages, liquidated damages, interest, and attorneys’ fees and costs, as provided for by law.

Parties

2. Plaintiff Antenor Dalfior is an adult resident of Malden, Massachusetts. He worked for Defendants as a pizza roller from in or around 2018 until June 2023.

3. Defendant Antico Forno, Inc. is a Massachusetts corporation, with a principal place of business at 93 Salem Street, Boston, Massachusetts.

4. On information and belief, Defendant Carla Gomes is an adult resident of Canton, Massachusetts, and an employer for purposes of the FLSA. On information and belief, she is the president and owner of Antico Forno. Ms. Gomes substantially or

exclusively controls Antico Forno's policies and practices with respect to the payment of wages, including the policies and practices challenged in this case.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

6. Defendants have their principal place of business in the District of Massachusetts and otherwise conduct business in this District and are therefore subject to personal jurisdiction in this District.

7. Venue is proper in the District of Massachusetts pursuant to 28 U.S.C. § 1391, because Defendants are subject to personal jurisdiction in this District and because a substantial part of the acts or omissions giving rise to the claims addressed in this action occurred in this District.

Facts

8. Plaintiff worked as a pizza maker for the Defendants from 2018 to June 2023, when he was terminated.

9. Plaintiff was paid on an hourly basis, most recently at the rate of \$28.00 per hour.

10. Plaintiff regularly worked more than 40 hours per week.

11. The Defendants never paid Plaintiff an overtime premium for any of the hours he worked in excess of 40 each week.

12. Instead, the Defendants paid Plaintiff using multiple weekly paychecks, with each paycheck reflecting 40 or fewer hours per week, in order to unlawfully avoid paying overtime. As just one recent example, for the pay period beginning February 26,

2023 and ending March 4, 2023, Plaintiff worked 68.52 hours, meaning he worked 28.52 hours of overtime. Instead of paying him overtime, the Defendants paid him with two paychecks, each for 34.26 hours at his regular rate of \$28.00 per hour, as reflected in the paystubs attached as Exhibit 1.

13. Defendants knowingly and willfully failed to pay their hourly employees overtime when those employees worked more than 40 hours per week, and Defendants knowingly suffered or permitted their hourly employees to work more than 40 hours per week.

14. Plaintiff has consented to bring and participate in this action pursuant to 29 U.S.C. § 216(b). A copy of his written consent is attached as Exhibit 2.

COUNT I
FAILURE TO PAY OVERTIME – FLSA

As set forth above, Defendants' knowing and willful failure to pay Plaintiff overtime wages violates the overtime provisions of 29 U.S.C. § 207(a). This claim is asserted pursuant to 29 U.S.C. § 216.

WHEREFORE, Plaintiff requests that this Court enter the following relief:

1. A finding that Defendants' violations were willful and knowing, and therefore subject to a three-year statute of limitations;
2. An award of damages for all wages to which Plaintiff is entitled, including liquidated damages under the FLSA;
3. Attorneys' fees, costs, and interest; and
4. Any other relief to which Plaintiff and all class members may be entitled.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.

ANTENOR DALFIOR

By his attorneys,

/s/ Stephen S. Churchill

Stephen S. Churchill (BBO#564158)

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Dated: June 20, 2023